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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,553	06/02/2000	Shuji Ono	3562-0102P	5106

7590 03/17/2006  
Birch Stewart Kolasch and Birch LLP  
P O Box 747  
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EXAMINER	
TRAN, NHAN T	
ART UNIT	PAPER NUMBER
2615	

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/585,553

Applicant(s)

ONO, SHUJI

Examiner

Nhan T. Tran

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/27/2006 & 12/27/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 6-15, 17-19 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 16, 20 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/27/2006 & 12/27/2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-5, 16, 20, 22-24 have been considered but the arguments for claims 1-3, 16, 20, 22-24 are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

3. Claim 20 is objected to because of the following informalities: "depth information" recited in the last line of the claim should be corrected as -- said depth information --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 16, 20, 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Onuki (US 6,377,305 B2).

Regarding claim 1, Onuki discloses an image processing apparatus for processing an image (a final image or refined image) obtained by photographing a subject (see Fig. 36), comprising:

an image data unit (901; Fig. 36) for capturing a first image (image IM1 captured by image sensor 111) and a second image (a parallax image comprising IM2 + IM3 captured by image sensor 924) of the subject, said second image being captured in a parallax manner (see Fig. 36; col. 34, lines 24-49), an extractor (microcomputer 931) for extracting image information relating to conditions (i.e., brightness conditions; col. 36, lines 1-9) of the image only from said first image and depth information (i.e., distance information) indicating a distance between a point to another point on the subject only from said second image (col. 34, line 32 – col. 35, line 10, wherein a distance between a point at IM2 to another point at IM3 of the parallax image is determined); and a condition-determining unit (microcomputer 931) for determining a

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process condition (i.e., bringing image IM1 into focus from an out-of-focus image) of said first image (IM1) based on said depth information (see Figs. 36-39; col. 36, lines 29-31).

Regarding claim 2, Onuki further discloses an image processing unit (also, microcomputer 931; Fig. 36) for processing said image (the final image or refined image) based on said condition (see Fig. 39, col. 35, lines 52-55 and col. 36, lines 49-53, wherein the final image is processed as an in-focus image for recording and displaying at steps S833-S835).

Regarding claim 3, it is clear that the extractor extracts said depth information based on the parallax image obtained by photographing said object from different viewpoints (see Fig. 36).

Regarding claim 16, see the analysis of claim 1.

Regarding claim 20, see the analysis of claim 1. Note that the processing steps shown in Fig. 39 is performed by the microcomputer 931 by executing a program stored in an inherent memory of the camera (col. 35, lines 52-55).

Regarding claims 22-24, Onuki also discloses that the determined process condition is at least one of a color condition, compression condition (see col. 36, lines 49-52; col. 33, lines 54-57 and col. 25, lines 53-60).

### ***Allowable Subject Matter***

5. Claims 4 & 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 4, the prior art of record fails to teach or fairly suggest "said extractor extracts data of an aimed object from **said image based on said depth information**, and said condition-determining unit determines said condition for processing **said image** based on information including **said data of said aimed object**."

Regarding claim 5, this claim is directly dependent from claim 4.

### ***Conclusion***

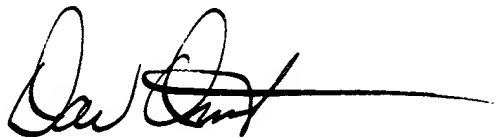
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T. Tran whose telephone number is (571) 272-7371. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NT.

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal flourish extending to the right.

DAVID OMETZ  
SUPERVISORY PATENT EXAMINER